

## **REMARKS**

### ***Claim Amendments***

Claims 43-94 are newly added and are pending. Claims 1, 4-13, 15-26, and 35-42 are canceled without prejudice or disclaimer to the subject matter therein. Applicant reserves his right to file one or more continuations and/or divisionals directed to the canceled subject matter. Support for the amendments can be found throughout the specification and the original claims as filed. *See, e.g.*, Specification, paragraphs [0038], [0041], [0042], [0045], [0064]-[0077], [0084], [0095], [000105]-[00110], [00132]-[00138], [00184], [00194]-[00197], [00206], [00260]-[00265], and Examples 1-5.<sup>1</sup> No new matter has been added.

### ***Statement of Substance of Interview***

In accordance with 37 C.F.R. § 1.133(b) and M.P.E.P. § 713.04, Applicant provides a summary of the interview among Supervisory Examiner Anne Marie Grunberg, Examiner Brent Page, Applicant and Applicant's representatives on June 19, 2009. Applicant and Applicant's representatives greatly appreciate the courtesies extended by Examiners Grunberg and Page.

During the interview, the Examiners indicated that the specification distinguishes between class 3 branching enzymes and other branching enzymes based on the number of amino acids present between the alpha-amylase and iso-amylase domains. Furthermore, the Examiners stated that, subject to a sequence search, the claims would be allowable if amended to recite that the plant cells and plants comprising the claimed nucleic acid molecules have a reduced activity of at least one class 3 branching enzyme and synthesize a starch with a decreased phosphate content in comparison with starch synthesized from a corresponding wild type plant cell that has not been genetically modified.

Applicant has added new claims directed to the subject matter discussed during the interview. For example, new claim 56 is directed to a genetically modified plant cell, wherein said genetically modified plant cell has a reduced activity of at least one class 3 branching enzyme and synthesizes a starch with a decreased phosphate content in comparison with starch synthesized from a corresponding wild type plant cell that has not been genetically

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<sup>1</sup> The paragraph numbers cited herein refer to the paragraph numbers set forth in the copy of the specification, which was filed on March 30, 2006.

modified. Accordingly, Applicant respectfully requests an indication that the new claims are allowable.

### ***Specification***

The Examiner objects to the specification's use of hyperlinks and/or other forms of browser-executable code.

Applicant has amended the specification remove these hyperlinks and other forms of browser-executable code in paragraphs [0046], [0047], and [0049].<sup>2</sup> Accordingly, Applicant respectfully requests withdrawal of this objection.

### ***Drawings***

The Examiner objects to the drawings because "there appear to be different Tables listed as Tables 2-3 that do not correspond with Tables 2-3 in the drawings." Office Action, page 2.

The description of the Figures have been amended to delete the reference to Tables 1-4. Accordingly, Applicant respectfully requests withdrawal of this objection.

### ***Claim Objections***

Claims 1, 13, and 18 are objected to because of an alleged improper incorporation by reference. These claims have been canceled, thereby rendering this objection moot.

### ***Rejections Under 35 U.S.C. §112, First Paragraph***

Claims 1, 4-13, 15-23, and 35-42 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the enablement requirement. These claims have been canceled, thereby rendering this rejection moot. Furthermore, Applicant believes new claims 43-94 comply with the enablement requirement because these claims are directed to the subject matter discussed during the interview.

Claims 1, 4-13, 15-23, and 35-42 stand rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. These claims have

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<sup>2</sup> The Examiner also objects to paragraph [0047]. Applicant respectfully submits, however, that this paragraph does not contain a hyperlink or other form of browser-executable code.

been canceled, thereby rendering this rejection moot. Furthermore, Applicant believes new claims 43-94 comply with the written description requirement because these claims are directed to the subject matter discussed during the interview.

***Rejections Under 35 U.S.C. §112, Second Paragraph***

Claims 1, 4-13, 15-23, and 35-42 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. These claims have been canceled, thereby rendering this rejection moot.

**CONCLUSION**

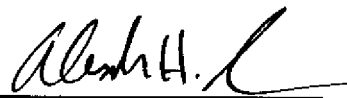
It is believed that these amendments and remarks should place this application in condition for allowance. A notice to that effect is respectfully solicited. If the Examiner has any questions relating to this response or the application in general he is respectfully requested to contact the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

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Date: June 22, 2009

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